

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION**

STATE OF TEXAS, *et al.*,

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

Case No. 2:24-cv-86-Z  
District Judge Matthew J. Kacsmaryk

**JOINT NOTICE OF PARTIES' PROPOSED BRIEFING SCHEDULES  
FOR MOTION FOR § 705 STAY AND PRELIMINARY INJUNCTION**

Pursuant to the Court's Order (ECF No. 23), the parties respectfully notify the Court that they were not able to reach agreement on a joint briefing schedule on Plaintiffs' Motion for § 705 Stay and Preliminary Injunction (the "Stay/PI Motion"), and to set forth their respective proposals.

1. On April 29, 2024, the State of Texas filed its original complaint in this case. ECF No. 1.
2. On May 13, 2024, Plaintiffs filed an amended complaint. ECF No. 12.
3. On May 13, 2024, Plaintiffs filed the Stay/PI Motion, attached to a motion for leave to exceed the page limit. ECF Nos. 13, 13-2.
4. On May 14, 2024, Plaintiffs filed a motion for expedited briefing schedule on the Stay/PI Motion. ECF No. 14. The Court granted Plaintiffs' motion to exceed page limit and denied Plaintiffs' motion for an expedited briefing schedule. ECF No. 15.
5. On May 15, 2015, Plaintiffs served the Stay/PI Motion, along with the original and amended complaints, on Defendants. ECF Nos. 17–22.

6. On May 29, 2024, undersigned counsel conferred by videoconference regarding the Court's Order (ECF No. 23) and the parties' desired briefing schedules. The parties could not reach agreement on many aspects of the schedule. They do agree, however, that an evidentiary hearing is not necessary but support oral argument on the Stay/PI Motion as soon as practicable after close of briefing. The parties' respective proposals are as follows:

***Plaintiffs' Proposal***

7. Plaintiffs propose that Defendants file their opposition to the Stay/PI Motion according to the local rules of this Court—21 days after being served, *see* N.D. Tex. L.R. 7.1(e)—on June 5, 2024. Plaintiffs would file their reply also as required by the local rules, *id.*—on June 19, 2024.

8. Because the Final Rule has an effective date of August 1, 2024—and addresses many complex issues across 423 triple-columned pages of the Federal Register<sup>1</sup>—Plaintiffs believe the Court should have as much time as possible after the end of briefing and any hearing to issue a thorough opinion in advance of the effective date. Any delay beyond the default briefing schedule set by the local rules of this Court would only serve to jam up the Court as the effective date approaches.

9. As noted by Defendants below, they intend to move to consolidate this case with *Carroll ISD v. U.S. Dep't of Educ.*, No. 4:24-cv-00461-O (N.D. Tex. 2024), filed in the Fort Worth Division. As the plaintiff in that case filed its motion for preliminary relief just yesterday (ECF No. 15 in that case)—over two weeks after Plaintiffs here—Plaintiffs will oppose any move to

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<sup>1</sup> To expedite resolution of this complex case well in advance of the effective date, Plaintiffs filed their original complaint the day the Final Rule was published in the Federal Register and filed their 50-page Stay/PI Motion a mere two weeks later.

consolidate, as it would necessarily lead to further delay of resolution of the Stay/PI Motion, as indicated by Defendants' proposed schedule.

***Defendants' Proposal***

10. Defendants propose that their opposition to the Stay/PI Motion be due June 14, 2024. Defendants take no position on when Plaintiffs' reply should be due. Defendants believe that oral argument in this case would aid the Court, and that such argument could be held soon after the due date for Plaintiffs' reply.

11. As noted by the Court in its prior order (ECF No. 15), Plaintiffs have filed a double-length brief on the ground that this case raises "complex issues of national importance." Although Plaintiffs sought an expedited briefing schedule and now oppose any adjustment of the default opposition deadline on the basis that time is of the essence, their own actions belie that contention. Plaintiffs waited over two weeks after the Final Rule issued on April 29 before seeking preliminary relief—longer than at least three other sets of plaintiffs now challenging the Final Rule, which in any case does not go into effect until August 1.

12. Plaintiffs' opposition to a modest 9-day extension of the default deadline is unwarranted; Defendants' proposed schedule would allow ample time for the Court to decide the Stay/PI Motion in advance of the Final Rule's August 1 effective date.

13. Defendants seek this schedule due to the press of business in nine other cases challenging the same Final Rule at issue in this case, including seven other cases with pending preliminary injunction motions. Several of these motions predated Plaintiffs' Stay/PI Motion. Undersigned Defendants' counsel currently are handling the following related matters with pending preliminary injunction motions:

- *Tennessee v. Cardona*, No. 2:24-cv-00072 (E.D. Ky. 2024) (motion filed May 3; opposition filed May 24; hearing on June 10)

- *Alabama v. Cardona*, No. 7:24-cv-533 (N.D. Ala. 2024) (motion filed May 8; opposition due June 5)
- *Louisiana v. U.S. Dep't of Educ.*, No. 3:24-cv-00563 (W.D. La. 2024) (motion filed May 13; opposition due June 4)
- *Rapides Parish Sch. Bd. v. U.S. Dep't of Educ.*, No. 1:24-cv-00567 (W.D. La. 2024) (motion filed May 14; opposition due June 4)<sup>2</sup>
- *Arkansas v. U.S. Dep't of Educ.*, No. 4:24-cv-00636-RWS (E.D. Mo. 2024) (motion filed May 22; opposition due June 14)
- *Kansas v. U.S. Dep't of Educ.*, No. 1:24-cv-00567 (D. Kan. 2024) (motion filed May 25; opposition due June 13)
- *Carroll ISD v. U.S. Dep't of Educ.*, No. 4:24-cv-00461-O (N.D. Tex. 2024) (motion filed May 30)

14. Defendants also respectfully inform the Court that they will be moving shortly to consolidate the last-listed case above, *Carroll ISD*, with this matter, pursuant to Rule 42(a)(2). The plaintiff in *Carroll ISD* is one of the state school districts on behalf of which the State of Texas is seeking relief in this case.

15. However, counsel for Texas and Carroll ISD have informed counsel for Defendants that the State and its co-plaintiffs and the school district oppose consolidation. The parties in *Carroll ISD* therefore have agreed to a briefing schedule whereby Defendants' opposition to the school district's motion for preliminary injunction will be due June 20, assuming that *Carroll ISD* is not consolidated with this case. If the Court grants Defendants' anticipated consolidation motion, Defendants instead will seek to file a *combined* brief in opposition to Texas's and Carroll ISD's motions by June 14, 2024, the same date as proposed above.

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<sup>2</sup> Consolidated with *Louisiana v. U.S. Dep't of Educ.*, No. 3:24-cv-00563.

Dated: May 31, 2024

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I certify that on May 31, 2024, this document was filed through the Court's CM/ECF system, which served it upon all counsel of record.

/s/ Elizabeth Tulis